

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

v.

Dennis Eugene Mentzos,

Defendant.

**MEMORANDUM OPINION
AND ORDER**

Criminal No. 04-173 ADM/RLE

Timothy C. Rank, Esq., and Nicole A. Engisch, Esq., Assistant United States Attorneys,
Minneapolis, MN, on behalf of Plaintiff.

Dennis Eugene Mentzos, pro se.¹

I. INTRODUCTION

This matter is before the undersigned United States District Judge on Defendant Dennis Eugene Mentzos' ("Defendant") Pro Se Appeal of Magistrate Judge Decision [Docket Nos. 186] to Magistrate Judge Raymond L. Erickson's Order of July 7, 2005 ("Order") [Docket No. 175] denying Defendant's Applications for the Issuance of Subpoenas [Docket Nos. 94-101]. The procedural and factual background, described in the Order, is incorporated by reference. For the reasons set forth below, Defendant's Appeal is denied, and the Order is adopted.

II. DISCUSSION

In reviewing the recommendations of a magistrate judge, the District Court "shall make a de novo determination of those portions of the report or specified proposed findings or

¹ Magistrate Judge Raymond L. Erickson has previously found Defendant Dennis Eugene Mentzos competent to represent himself, as was Defendant's desire [Docket No. 85]. Standby counsel, Michael C. Davis, is available to Defendant.

recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C); see also D. Minn. LR 72.2(a). A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id.

Defendant filed an appeal of Judge Erickson’s Order denying the issuance of a number of requested subpoenas duces tecum, as well as a number of subpoenas compelling the attendance of certain individuals at Defendant’s trial. Defendant raises no specific objections to the Order, but rather makes generalized objections to Judge Erickson’s rulings, and repeatedly questions Judge Erickson’s objectivity.² No objective basis of fact underpins Defendant’s allegations of bias, however, and a careful review of Judge Erickson’s decisions in this case does not reveal bias.

The Order correctly sets forth the standard for the issuance of subpoenas duces tecum. Under Rule 17(c) of the Federal Rules of Criminal Procedure, a “subpoena may order the witness to produce any books, papers, documents, data, or other objects the subpoena designate.” “[I]n order to gain access to said materials, the moving party must show that the subpoenaed document (1) is relevant, (2) is admissible, and (3) has been requested with adequate specificity.” United States v. Hardy, 224 F.3d 752, 755 (8th Cir. 2000), quoting United States v. Nixon, 418 U.S. 683, 700 (1974). The Order denies Defendant’s subpoenas duces tecum for failure to meet one or more of these requirements. A careful review of Defendant’s subpoenas indicates this ruling is accurate. Defendant’s subpoenas do not speak to the requisite level of

² Defendant also raises objections to Minnesota as venue for his trial. These objections have been ruled on previously. Order of July 13, 2005 [Docket No. 187]. As the current objections raise no new issues meriting a change in or reconsideration of the decisions set forth in that Order, these objections will not be addressed.

specificity, and most seek information that is not relevant or admissible at trial. Consequently, Judge Erickson's order is affirmed as to the subpoena duces tecum.

Next, the Order addresses Defendant's motions to compel certain witnesses at trial. Under Federal Rule of Criminal Procedure 17(b), the "burden is on the requesting party to show that the desired witnesses are necessary to an adequate defense." United States v. Blade, 336 F.3d 754, 758 (8th Cir. 2003), quoting United States v. Hang, 75 F.3d 1275, 1282 (8th Cir. 1996). The Order correctly found the witnesses subpoenaed by Defendant have no bearing on Defendant's guilt or innocence at trial. Rather, they relate to complaints Defendant makes as to proceedings that occurred in a California state court, the decision to impose restrictions on Defendant while at the Treatment Center, and the decision to prosecute Defendant in Minnesota. Because these witnesses' testimony does not relate to Defendant's trial, the Order's findings will be adopted.

III. CONCLUSION

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Erickson's Order [Docket No. 175] is **ADOPTED**; and

2. Defendant's Pro Se Appeal of Magistrate Judge Decision [Docket Nos. 186] is
DENIED.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: July 14, 2005.